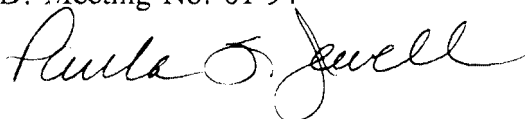


APPROVED: Meeting No. 01-94

ATTEST:



MAYOR AND COUNCIL
ROCKVILLE, MARYLAND
Meeting No. 41-93

December 13, 1993

The Mayor and Council of Rockville, Maryland, convened in General Session in the Council Chamber, Rockville City Hall, 111 Maryland Avenue, Rockville, Maryland, on December 13, 1993, at 7:30 p.m.

PRESENT

Mayor James F. Coyle

Councilmember Robert E. Dorsey

Councilmember Rose G. Krasnow

Councilmember James T. Marrinan

Councilmember Nina A. Weisbroth

In attendance: City Manager Bruce Romer, City Clerk Paula Jewell and City Attorney Paul Glasgow.

Re: City Manager's Report

1. On December 16th, the City will hold the annual employee service awards ceremony at the F. Scott Fitzgerald Theater.
2. The City was near completion on the project involving the Don Mills Court infiltration basin which was part of the City's mitigation package for the Wootton Parkway development. Mr. Romer said that this had been a project with a high level of citizen involvement; the City was actually concluding the project with a neighborhood meeting and walk through on December 23rd with the neighbors as well as Councilmember Krasnow.

3. On December 14th, Councilmembers Krasnow and Marrinan and staff will join the Chamber of Commerce for a site visit at Saven Business Products, a Rockville business for over 20 years which has relocated its business to new quarters.

4. The City successfully concluded what is known as the Equitable Case, a major piece of litigation which involved property the City had sold at one time to a company for development in Town Center which did not take place. The City consequently took the property back and the issue became a complex piece of litigation, that, had it not gone well, could have amounted to a million dollar liability to the City. The Court of Special Appeals agreed with the City's position and found the City guilty of nothing, removing the possibility of the liability.

5. Cable Channel 53 will air a program on the changing diversity in Rockville and the challenging issues facing our City. Individuals representing the City's diverse community who participated in the program included, Dr. Alan Cheung, a leader in the Asian community, former City Councilmember Rupert Curry, Hispanics United for Rockville's Galo Correa, as well as City Manager Bruce Romer.

6. Channel 53 has increased the City's taped replay of programs to 18 hours of programming per day.

Re: Presentation of proceeds check in the amount of \$1,546 to the Rockville Sister City Corporation as beneficiary of the 1993 Oktoberfest.

Mayor Coyle and members of the Council presented a check to the Rockville Sister City Corporation. Elizabeth Von Kaenel, President of the Rockville Sister City Corporation,

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accepted the check which represented proceeds raised from the sale of beverages during the City's Oktoberfest.

Re: Presentation of proceeds check in the amount of \$381 to the Rockville Kiwanis Club as beneficiary of the 1993 Oktoberfest.

Mayor Coyle and members of the Council presented a check to Howard Silberstein of the Rockville Kiwanis representing the proceeds raised from the sale of tee shirts at the Oktoberfest.

Re: Proclamation recognizing the Washington Area Council on Alcoholism & Drug Abuse, Inc., (WACADA) work on the 1993 Holiday Hotline for Alcohol and Drug Problems.

The proclamation was read by Councilmember Dorsey. Upon motion of Councilmember Dorsey, duly seconded, the Proclamation recognizing WACADA's work on the 193 Holiday Hotline was unanimously passed.

Re: Proclamation declaring December 1993 as **NATIONAL DRUNK AND DRUGGED DRIVING PREVENTION MONTH** in Rockville.

The proclamation was read by Councilmember Weisbroth. Upon motion of Councilmember Weisbroth, duly seconded and unanimously passed, the month of December 1993 was declared as National Drunk and Drugged Driving Prevention Month in Rockville. Pauline

Cooper, Executive Director of the Montgomery County Chapter of MADD accepted the Proclamation.

Re: Citizens Forum

1. Randy Slovic drank from a glass of water that she said came from a number of Montgomery County creeks and was filtered through the Rockville water treatment facility. She pointed out that this was why citizens were concerned about issues such as stormwater management and wetlands. Ms. Slovic referenced the agenda item regarding the waiver for on-site SWM for Congressional Plaza and said that the money should go to quantity or quality control. She also asked about the status of the Cabin John Creek watershed study.

Mr. Romer said preliminary results of the study would be soon forthcoming; he said the results were expected in 1994 and the City was right on schedule.

Ms. Krasnow pointed out to Ms. Slovic that the City would also be doing on-site quality as well as quantity control for the Congressional Plaza project.

2. Bill Meyer, 804 Leverton Road, encouraged that the Mayor and Council direct funds provided in last year's budget, to be expended for contracted cleaning of the existing SWM facilities to make them more environmentally acceptable to produce a higher water quality.

3. Mansfield Kasemen, 704 Carter Road said that he recently learned that the proposed text amendment T-139-93 would apply to parish houses and religiously owned property contiguous with the sanctuary; he said his prior understanding was that this would only involve property that was unrelated to such institutions, and this raised concerns and he was concerned about religious

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institutions being required to go through the special exception process in order to use property contiguous with the church.

Re: Appointments

Upon motion of Councilmember Marrinan, duly seconded and unanimously passed, Karen Lechter was appointed in rotation to serve as a voting member of the Board of Appeals.

Upon motion of Councilmember Krasnow, duly seconded and unanimously passed, Susan Hoffmann was appointed to the Planning Commission.

Upon motion of Councilmember Dorsey, duly seconded and unanimously passed, Murray Stein was appointed to the Senior Citizens Commission.

Re: Approval of Minutes

Meeting No. 39-93 (November 22, 1993)

Councilmember Weisbroth requested that her husband's full name--Larry Culleen--be noted on page one. Upon motion of Councilmember Weisbroth, duly seconded and unanimously passed, the minutes of Meeting No. 39-93 (November 22, 1993) were approved, as amended.

Meeting No. 40-93 (November 29, 1993)

Upon motion of Councilmember Krasnow, duly seconded and unanimously passed, the minutes of Meeting No. 40-93 (November 29, 1993) were approved.

Re: Consent Agenda

Councilmember Krasnow asked for the removal of Items A and B. Councilmember Weisbroth also asked for the removal of Item A. Upon motion of Councilmember Marrinan, duly seconded and unanimously passed, the following Consent Agenda items were approved:

- (C) Introduction of Ordinance to adopt Map Amendment Application M-60-93, Miller, Miller and Canby, Attorneys for the Estate of William A. Linthicum, Applicant.

This application requests amendment to the Zoning Map so as to reclassify a 9,834 square foot property at 110 S. Washington Street from the R-90 Residential Zone to the O-1 Office Zone.

- (D) Introduction of Ordinance to adopt Map Amendment Application M-61-93, Potomac Capital Investment Corporation, Applicant.

This application requests amendment to the Zoning Map so as to reclassify a 24.54 acre portion of the PEPCO property between West Gude Drive and Redland Road from the I-2, Light Industrial Zone to the I-3, Industrial Park Zone.

- (E) Authorization for the City Manager to purchase two pickup trucks under the State of Maryland Bid #Q72180 for the total cost of \$23,849 from Criswell Chevrolet, Gaithersburg, Maryland.

This opportunity for volume purchase of vehicles is available through the Metropolitan Area Government Rider Clause. The amount budgeted in account #100-

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850-0803-0431 for this purchase is \$27,000.

Re: Award of Bid #44-94 for the maintenance of 21 SWM facilities located throughout the City to Environmental Quality Resources, Inc. (EQR) in the low bid amount of \$86,093.25.

The work includes trash and debris removal and limited sediment removal. This project excludes grass mowing, which is done by a separate contract. This contract is scheduled to begin in January, 1994.

Councilmembers Krasnow and Weisbroth requested the removal of Item A to inquire what type of work had to be eliminated because all of the bids came in over the budgeted amount.

Susan Strauss, Senior Civil Engineer, noted that the City would concentrate on tree and shrub removal on the dams because such growth resulted in the dams becoming structurally unsound and prone to failure. She emphasized that staff would work closely with home owner associations and citizens who lived in close proximity to the SWM facilities. Ms. Strauss explained examples of the difference between routine and non routine maintenance. In response to Ms. Weisbroth's concern about the City's practice of bidding out all the maintenance work resulting in higher bids, Ms. Strauss said staff would be closely monitoring the work to be done, the level of maintenance that would be provided, and the amount it cost to ensure that the work could be done in a cost effective manner. Ms. Strauss said the oil grit separators were a different

type of routine maintenance; however, she said she had been working with the State and Council of Governments to investigate how the City could contract out a service to dispose of the water, oil and grit.

Upon motion of Councilmember Krasnow, duly seconded and unanimously passed, Bid #44-94 for the maintenance of 21 SWM facilities was awarded to Environmental Quality Resources.

Re: Award of RFP #40-94 for Architectural Services for Remodeling at Glenview Mansion, to Wheeler, Goodman, Masek and Associates, Inc. of Annapolis, Maryland, in the amount of \$22,970.

This project calls for the preparation of architectural designs, drawings, and specifications for improvements to the second floor of Glenview Mansion, including the installation of an elevator. Sufficient funds are budgeted for this project in the Glenview Mansion Improvements Master Plan Project in the CIP.

Councilmember Krasnow requested the removal of Item B to inquire why 65 requests for proposals were put out for the renovation and elevator installation at Glenview Mansion. Burt Hall, Director of Recreation and Parks, said the Contracts Office had a standard list of architects and any qualified firm which asked to be put on the bidder's list was automatically sent an RFP on a project such as this. Upon motion of Councilmember Krasnow, duly seconded

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and unanimously passed, RFP #40-94 for architectural services for remodeling at Glenview Mansion, was awarded to Wheeler, Goodman, Masek and Associates.

Re: Approval of waiver for on-site SWM quantity control for the Congressional Plaza re-hab located in the Cabin John drainage area, and the acceptance of \$112,800 contribution for the off-site SWM fund.

The runoff is conveyed to the authorized Montrose Park SWM facility. Waiver category: II-A-4,5,6.

Re: Approval of waiver for on-site SWM for the conversion of a single family home at 39 West Montgomery Avenue in the Rock Creek drainage area, and the acceptance of \$18,160 contribution for the off-site SWM fund.

The runoff is conveyed to the existing Maryvale II SWM facility. Waiver category: I-A-4,5,6.

Ms. Strauss explained that with the Stormwater management process, quality and quantity controls were involved, and both were requests for participation in the City's regional program for quantity. She said quantity control was required when a piece of property came in for development and generally would result in an increase in runoff which caused problems for City streams. She said the City recognized and adopted a stormwater management program to try and

turn back the time to improve the quality of the streams through on-site stormwater management and through participation in the City's regional program when it was not feasible or in the best interest to provide stormwater management on the actual development site. She said some of the reasons when providing on site SWM become impractical or not feasible had to do with the location of the facility and the watershed. In the case of Congressional Shopping Center, Ms. Strauss said that this factor became an important asset. She said another aspect of providing on site SWM for quantity control had to do with the size of the development site and the size of the drainage area. She said some unique particulars about Congressional Shopping Center was that the development would result in a net decrease in flow rate regardless of any type of SWM because of the zoning regulations which required putting in an acre of green space which would reduce the runoff leaving that site by approximately 6%. She said that quality control will be provided on site by direct infiltration or sand filtration structure and will result in an additional 25% decrease of runoff leaving the site. She also said that at this site, State law did not require that any SWM be provided; however, the City's law went beyond the State law.

Councilmember Krasnow commented it would be a good idea to go back and look at whether the \$40,000 per acre cost needed to be increased. Mr. Romer said staff was planning to look at this as part of the budget process.

Upon motion of Councilmember Krasnow, duly seconded and unanimously passed, the waivers for on-site SWM quantity control for Congressional Plaza and for the conversion of a single family home at 39 West Montgomery Avenue were approved and the contributions for each off-site SWM funds were accepted.

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Re: Adoption of Resolution to amend the Charter of the City of Rockville so as to provide that conviction of a misdemeanor offense shall be punishable by a fine not exceeding One Thousand Dollars, or imprisonment for six months, or both.

Resolution No. 29-93

Upon motion of Councilmember Weisbroth, duly seconded and unanimously passed, the Resolution amending the Rockville Charter to make the penalty for conviction of a misdemeanor consistent with State law, was adopted. The full text of the Resolution can be found in Resolution Book No. 10 of the Mayor and Council.

Re: Adoption of Resolution to amend the Charter of the City of Rockville so as to set forth the procedure for appeals of special assessment levies.

Resolution No. 30-93

Upon motion of Councilmember Krasnow, duly seconded and unanimously passed, the Resolution amending Rockville Charter to make certain technical changes in the procedure for appeals of special assessment levies consistent with recent changes in State law, was adopted. The full text of the Resolution can be found in Resolution Book No. 10 of the Mayor and Council.

Re: Introduction and Adoption of Ordinance to Grant Text Amendment Application T-137-93, Joseph A. Lynott, Attorney for Federal Realty Investment Trust, Applicant.

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Amendment to the parking requirements section of the Zoning Ordinance so as to establish a separate parking standard for shopping centers and reduce the parking requirement for retail establishments.

Ordinance No. 24-93

Councilmember Krasnow asked if Congressional Shopping Center was the only shopping center in the City that fell into the size category effected by the Text Amendment. Larry Owens, Chief Planner, said that the Congressional South Shopping Center also met the definition of the Text Amendment.

Upon motion of Councilmember Dorsey, duly seconded and unanimously passed, the layover requirement was waived. Upon motion of Councilmember Marrinan, duly seconded and unanimously passed, the Ordinance was introduced and adopted. The full copy of which can be found in Ordinance Book No. 18 of the Mayor and Council.

Re: Introduction and Adoption of Ordinance to Grant Text Amendment Application T-140-93, Rockville Center, Inc., Applicant.

Amendments to the Town Center development regulations of the Zoning Ordinance to establish a new optional method of development in the Town Center mixed uses zones, and to make other modifications applicable to all Town Center zones.

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Ordinance No. 25-93

Councilmember Weisbroth noted that in Section 2518 regarding heights, the language in the middle of the page stipulated that height limits should not apply to certain structures, however at the bottom of the page, in granting any such variance, the Planning Commission may impose such conditions that may be reasonable and necessary so that rooftop structures are consistent with the plan, including but not limited to the screening of rooftop structures. Ms. Weisbroth said in reading this, she felt the Planning Commission could grant a variance for any of the rooftop structures and she said she believed the discussion within the Planning Commission and the Mayor and Council was that the variances related only to non habitable architectural rooftop structures and not any rooftop structures that might exist at the top of the building. She asked for confirmation on this. Mr. Owens said the text amendment had not been put in final legal language; and the items listed in the ordinance already were non habitable elements. He said the items numbered 1-5 were causing the applicant concern and the subsequent language would allow the Planning Commission to grant a variance for items 1-5 which dealt with the height and design of rooftop structures; structures which were already listed in the Ordinance and which were non habitable.

Upon motion of Councilmember Weisbroth, duly seconded and unanimously passed, the language on page 3 was amended to read "...dimensions of any non habital, architectural rooftop structure"; and on page 4, to read "...so that the non habital architectural rooftop structures are consistent...".

Upon motion of Councilmember Krasnow, duly seconded and unanimously passed, the layover requirement was waived. Upon motion duly made and seconded, the Ordinance was introduced. Upon motion of Councilmember Weisbroth, duly seconded and unanimously passed, the Ordinance was adopted, as amended. The full text of which can be found in Ordinance Book No. 18 of the Mayor and Council.

Re: Adoption of Resolution to revise the fee schedule for zoning and other development review applications.

To establish a processing fee for the new Preliminary Development Plan application.

Resolution No. 31-93

Councilmember Weisbroth asked if there were other localities with similar procedures or was this procedure unique to Rockville. Mr. Owens said in determining the recommendation for this fee, staff looked at some of the City's other processes that were similar. He explained that this was a planned unit type of process used in the City. The City had experienced other processes which were of comparable complexity: the exploratory applications to the Tower Oaks development and the exploratory application for the Rose Hills Falls development.

Councilmember Weisbroth noted that a typo needed correcting on page 2, Item 1(a) of the Resolution; the category for land "Over one acre" should read \$400.00 for the first acre; instead of \$500.00.

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Upon motion of Councilmember Weisbroth, duly seconded and unanimously passed, the Resolution revising the fee schedule for zoning and other development review applications was adopted. The full text of the Resolution can be found in Resolution Book No. 10 of the Mayor and Council.

Re: Adoption of Resolution to adopt a solid waste subsidiary plan for submission to the Montgomery County Executive and Council for inclusion in the County 10-year solid waste plan.

Resolution No. 32-93

Mayor Coyle noted receipt of a letter from the Director of the County Department of Environmental Protection giving support to the City's solid waste plan. He also noted that the County Executive sent a letter giving his approval to the City's approach.

Councilmember Krasnow commented that the Subsidiary Plan was a very comprehensive report on what the City was doing and why we were taking the action; and she asked if the report would be available to the public. Councilmember Weisbroth said she concurred with Ms. Krasnow's comments. Mr. Romer noted that the report would be available from the City Manager and City Clerk's Office.

Upon motion of Councilmember Marrinan, duly seconded and unanimously passed, the Resolution adopting a solid waste subsidiary plan for submission to Montgomery County, the full text of which can be found in Resolution Book No. 18 of the Mayor and Council, was adopted.

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Re: Discussion and Instructions to Staff regarding Text Amendment Application T-139-93, Rockville Planning Commission, Applicant.

Amendment to the Zoning Ordinance so as to eliminate convents, monasteries, parish houses and parsonages as permitted uses in residential zones, and provide for such facilities as accessory uses on the same lot as a place of worship.

Mr. Owens explained that when on a contiguous lot, you are on a separate lot and therefore the property or lot stands on its own in terms of meeting zoning requirements and being able to transfer, or sell the property. He said a contiguous lot was treated quite differently than being on the same lot. Contiguous properties could be combined because they're in one ownership and are abutting, into that single record lot which was one of the key elements in the accessory use provisions. Mr. Owens said the proposed text amendment removed from the zoning ordinance, the term parish house, parsonage, monastery and convents which were terms that were never defined. Under the new Ordinance, the accessory use met the definition of a clearly incidental and customary use to the place of worship; it was clearly customary and incidental for a member of the clergy to live on the property with the place of worship, and it would be no question that it would be permitted to occupy the same lot as the place of worship and could be reviewed along with the use permit as the place of worship and be handled as a single entity.

Mr. Owens said if additional usable square footage was added to the building or to the property, it would generate a use permit by common practice. Changes to use permits

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amendments typically do not need an amendment when usable floor area is being added; this would not be by a special exception, it would be by right. There would be no special parking requirements, but it would have to meet the height and setbacks the zone provides for.

Mayor Coyle said when the issue was brought forward by the Planning Commission, most of the Council thought it dealt with properties that were in essence, not contiguous to a place of worship. Mr. Owens said the contiguous property would be treated the same as if it were a block away because it was not on the same record lot. He said the advantage of a contiguous property is that it was very easy for the owner to create a single record lot because they were already linked in space and would only have to link in the land records. Once the land record process of creating the record lot was achieved, then the simpler process of the on site use permit would be applicable to the property.

Mr. Owens said at the public hearing on the issue, there was a lot of discussion about issues not relevant to the text amendment. He said the text amendment was narrow in scope and had nothing to do with houses being converted to churches or day care or nursery or private schools. He said there were quite a number of religious institutions that had other facilities on site and off site that were currently controlled by special exceptions and these would continue to be controlled by such. Mr. Owens explained that the only items affected by the text amendment were the undefined uses of parish houses, parsonages, monasteries and convents and to staff's knowledge, there were presently none in the City Rockville.

The Mayor and Council discussed the text amendment at length and agreed that further clarification of the language was needed. Staff was also asked to prepare for inclusion,

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some definition of contiguous lots and record lots, and return for further discussion and instruction to staff at the January 10th General Session.

Re: FYI/Correspondence

1. Councilmember Marrinan commented on Item #5 regarding the City's water system testing; he referred to the recent water crisis in Washington, D.C. and Northern Virginia and said he was proud that Rockville's water was unaffected by the crisis and he commended Rockville staff on a well managed water treatment system and facility.

2. Councilmember Marrinan noted that the Council of Governments had formed a round-the-clock crisis center to disseminate information to the jurisdictions that were affected by the recent water crisis.

3. Councilmember Krasnow pointed out that Rockville's water would be discolored during the testing period, and she reminded citizens that this would not mean that there was a problem.

4. Councilmember Weisbroth congratulated David Melnick on being elected Chair of the Planning Commission and wished him luck.

Re: New Business

1. Councilmember Weisbroth commented that she had requested that the City's recycling program be extended so that the City's boards and commissions could participate in it. She requested the support of the Mayor and Council to enable a memo, that the City Manager had developed recommending that members of our boards and commissions recycle their unneeded documents at City Hall, be released.

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2. Councilmember Krasnow commented that the City's donations to the holiday drive were down this year while the number of requests for food baskets had increased, and she encouraged residents and staff to participate in the holiday drive.

3. Mayor Coyle noted that he, Councilmember Dorsey and Chamber of Commerce representatives met with a delegation from Shijiazhuang, China on December 11th. The City of Shijiazhuang, whose name when translated means "Rockville", is looking to interact in a business relationship with the City of Rockville. Mayor Coyle suggested that the Council may want to discuss this idea.

4. Mayor Coyle said that he and Councilmember Dorsey attended a holiday open house at the Shady Grove Women's Shelter, a transitional home, supported by the County and run by a private company, for women with mental problems.

5. Mayor Coyle referenced Mr. Romer's memo regarding options for keeping the Farmer's Market located in the Town Center area. Mr. Romer explained that said staff had investigated alternative sites in anticipation that the Town Center site might not be available. He said that staff obtained new information about the sequencing of events for the development of Town Center and they may be able to report back with a concrete proposal for keeping the market in the Town Center location for the upcoming calendar year.

6. Councilmember Krasnow announced that the Mayor and Council had implemented a twice per month Saturday Drop In schedule which will be published in Rockville Reports.

7. Mayor and Council reached consensus to contribute \$795 from their Targets of Opportunity account to the Presidential Scholarship program.

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8. Mayor Coyle expressed appreciation to Police Chief Treschuk for his department's work, along with that of the State and the County, to help reduce the number of vehicle tragedies during the holiday season.

Re: Next Meeting

The Mayor and Council's next meeting will be a General Session scheduled for Monday, January 10, 1994.

Re: Executive Session pursuant to Section 10-508(a)(1)(ii) of the State Government Article, Annotated Code of Maryland, to discuss a personnel matter that affects 1 or more specific individuals.

Upon motion of Councilmember Dorsey, duly seconded and unanimously passed, the Mayor and Council convened into Executive Session.

Re: Adjournment

There being no further business to come before the Mayor and Council, the meeting was adjourned at 9:50 p.m. to reconvene in General Session on January 10, 1994 or at the call of the Mayor.